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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,163	08/17/2001	William Ellis Leslie	RSW920010164US1	4683
7590	12/07/2004		EXAMINER	
IBM CORPORATION INTELLECTUAL PROPERTY LAW DEPT. IQOA/BLDG. 040-3 1701 NORTH STREET ENDICOTT,, NY 13760			SMITH, TRACI L	
			ART UNIT	PAPER NUMBER
			3629	
DATE MAILED: 12/07/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/932,163	LESLIE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Traci L Smith	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 August 2001.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 17 August 2001 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

1. This action is in response to papers filed on August 17, 2001.
2. Claims 1-10 are pending

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5 987 415; Breese et al.

5. As to claim 1 Breese teaches a method of a computer interface modeled from a persons emotions and personality by:

- a. Tracking concepts of a personality or emotion that is interpreted as a particular style(C.11 l. 5-9)
- b. Giving value to the concepts tracked(C. 13 l. 27-29)
- c. Customizing agent with a matching mood and personality(C. 13 l. 31-33)

6. As to claim 2 Breese teaches the presentation over the internet(C. 4 l. 60-61)

7. As to claim 3 Breese teaches the method performed by a server(C. 7 l. 46-47).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5 987 415; Breese et al.as applied to claims 1-3 above, and further in view of US Patent 6 401 094 B1 Stemp et al.

10. As to claims 4-5 Breese teaches a method of a computer interface modeled from a persons emotions and personality by:

d. Tracking concepts of a personality or emotion that is interpreted as a particular style(C.11 l. 5-9)

e. Giving value to the concepts tracked(C. 13 l. 27-29)

f. Customizing agent with a matching mood and personality(C. 13 l. 31-33)

11. However, Breese fails to teach the Myers Briggs indicators as the variables. Stemp teaches a method of presenting information based on user preferences allowing Myers Briggs as a possible mode of gaining personality information(C.6 l. 45-50). It would have been obvious to one of ordinary skill in

the art at the time of invention to combine the teaches of Stemp with Breese so as to have known personality indicators to use as a standard of comparison.

12. As to claims 6-10 Breese teaches variables used to determine the personality profile. However, Breese fails to teach specific terms. Stemp teaches Myers Briggs indicators as variables(C. 6 l. 45-50). ). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaches of Stemp with Breese so as to have known personality indicator to use as a standard of comparison. Althought both Stemp and Breese fail to explicitly teach the claimed deduction information it is deemed non-function. The examiners takes notice that these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps would be performed regardless of the information used in the deduction method. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *in re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 44(Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 2d 1031(Fed. Cir. 1994).

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Foreign Patent WIPO WO 01/18771 A2; Jordan, " method and system for dialog simulation. Non-patent literature article Journal of

American Society for Information Science; April 2000; "Individual Differences in Virtual Environments-Introduction and Overview."

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L Smith whose telephone number is (703)605-1155. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703.308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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